

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DAVID LESPIER, SR.,

Plaintiff,

-against-

TODD D. GREENBERG and DEPARTMENT  
OF CORRECTIONS,

Defendants.

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**BLOOM, United States Magistrate Judge:**

Plaintiff requests that the Clerk of the Court enter a default against defendants Greenberg and Department of Corrections. See Docket Entry 17. Plaintiff's request is denied. The Clerk must enter a default against defendants when that they have failed to plead or otherwise defend against an action. Fed. R. Civ. P. 55(a). In this case, the Court has already set the schedule for defendant Greenberg to move to dismiss in lieu of filing an answer. See Docket Entry 16. As to the Department of Corrections, the docket sheet does not reflect that service has been made upon the Department. However, the City of New York has received a copy of the complaint in this action. See Docket Entry 5. Although the City of New York notes that it has not been properly named as a defendant in this action, The Department of Corrections shall respond to the complaint by June 11, 2010.

SO ORDERED.

/S/  
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LOIS BLOOM  
United States Magistrate Judge

Dated: May 24, 2010  
Brooklyn, New York